IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

MAGDI FAHIM, Appellant v. LONA MAY FLEMMER, LAW OFFICES OF PEERY HISCOCK & RYDER, INC., P.C., and LAW OFFICES OF GAIL STAGMAN, Respondents.	)	No. 55489-1-I UNPUBLISHED OPINION FILED: **July 17, 2006**

SCHINDLER, A.C.J., — Magdi Fahim and Lona Flemmer have been involved in ongoing and contentious litigation over property and child custody since their meretricious relationship ended in 1993. In 1994, Flemmer retained two different law firms to represent her in the litigation with Fahim. In 1994, Flemmer signed two promissory notes for the amounts she owed the law firms for legal services. The promissory notes were secured by Deeds of Trust on her interest in property, including the house she purchased with Fahim. The law firms filed the Deeds of Trust in May 1994. Flemmer did not make payments to the law firms as agreed in the promissory notes. In July 1996, the court ordered

Flemmer to quit claim her interest in the house to Fahim. Soon thereafter, Flemmer filed for bankruptcy and listed the debts she owed the law firms. In 2003, acting pro se, Fahim filed this lawsuit against Flemmer and the two law firms to quiet title and for damages. The law firms answered and filed counterclaims against Fahim for CR 11 sanctions and a cross claim against Flemmer to foreclose on the Deeds of Trust. Fahim stipulated to dismiss all claims against Flemmer. On summary judgment the trial court dismissed Fahim's claims against the law firms and ordered foreclosure of the Deeds of Trust and sale of the house for the principal, interest, costs and attorney fees owed by Flemmer under the promissory notes. The court also imposed CR 11 sanctions against Fahim. On appeal, Fahim's primary contention is that because foreclosure of the Deeds of Trust is barred by the statute of limitations, the trial court erred in dismissing his quiet title action and ordering foreclosure. Fahim also argues the trial court abused its discretion in imposing CR 11 sanctions.

Preliminarily, we reject the law firms' procedural argument that we cannot consider Fahim's claim that the statute of limitations bars foreclosure. Fahim had no obligation to plead the statute of limitations as an affirmative defense in answer to the law firms' CR 11 counterclaims.[1] We conclude the law firms' rights under the Deeds of Trust were not extinguished in 1996 when Flemmer quit claimed her interest in the house to Fahim. But the six-year statute of limitations

[1] We also deny the law firms' motion to strike the statute of limitations arguments in Fahim's motion for reconsideration. Contrary to the law firms' assertion, Fahim appealed the court's denial of his motion for reconsideration.

bars the law firms' request to foreclose on the Deeds of Trust, unless the statute of limitations was extended by acknowledging Flemmer's obligation. There are material issues of fact as to whether Flemmer extended the statute of limitations when she listed the law firms' debts in her 1997 petition for bankruptcy or when she filed an answer to Fahim's lawsuit. We also conclude the record does not support the trial court's conclusion that Fahim had the authority to extend the statute of limitations. And, even if he did, there are material issues of fact as to whether he acknowledged Flemmer's debt so as to toll the statute of limitations.

We reverse the trial court's decision to dismiss Fahim's quiet title action and vacate the judgments in favor of the law firms ordering foreclosure. We affirm the judgment and order for attorney fees and CR 11 sanctions awarded to Flemmer but reverse the orders awarding CR 11 sanctions to the law firms and remand for further proceedings consistent with this opinion.

FACTS

Magdi Fahim and Lona Flemmer were in a meretricious relationship beginning in 1985. In 1992, they had a child and purchased a house together. Their relationship ended in 1993. Since then, Fahim and Flemmer have been involved in over a decade of contentious litigation involving property and custody disputes.

Between January and May 1994, the law firm of Peery, Hiscock, Pierson & Ryder [2] (Peery Hiscock) and lawyer Gail Stagman separately represented

[2] Now known as Kingman, Peabody, Pierson, & Fitzharris.

Flemmer in legal disputes with Fahim about the temporary parenting plan, child support, and property. By May 1994, Flemmer owed Peery Hiscock approximately $14,000 and Stagman approximately $3,500. Unable to pay, Flemmer signed two promissory notes and agreed to make monthly payments. Each note was secured by a deed of trust on Flemmer's interest in property, including the house Fahim and Flemmer purchased together. Peery Hiscock filed the Deed of Trust on May 4, 1994, and Stagman filed the Deed of Trust on May 25, 1994. Flemmer made only two payments to Peery Hiscock in 1994 and none to Stagman.

In 1994, the court resolved the disputes between Flemmer and Fahim and entered orders on custody, child support, and their property. The court designated Fahim as the primary residential parent of their child and ordered him to pay Flemmer $80,000 for her interest in the house. Two years later, in 1996, the court ordered Flemmer to quit claim her interest in the house to Fahim. In 1997, Flemmer filed for Chapter 7 bankruptcy and listed her debts to Peery Hiscock and Stagman.

In 1998, when Fahim was attempting to refinance, he learned about the Deeds of Trust on the house. Fahim contacted the law firms to determine the amount of the liens. A couple of weeks later, Fahim's attorney contacted the law firms and demanded removal of the liens.

Acting pro se, Fahim filed a "Complaint to Quiet Title for Declaratory Relief, for Accounting and for Damages," (Complaint to Quiet Title) against

Flemmer and the law firms in June 2003. In the Complaint to Quiet Title, Fahim stated that he first learned about the law firms' liens in 2003 when he attempted to refinance his house. Fahim asserted claims against Flemmer and the law firms for fraud, misrepresentation, and slander of title based on the failure to notify him about the liens. Fahim asked for damages and an order quieting title to the house in his name. In the alternative, Fahim requested an accounting of the amounts owed to the law firms and indemnification from Flemmer.

Flemmer asserted various counterclaims against Fahim in her answer, including defamation, harassment, intentional and negligent infliction of emotional distress, and misrepresentation. Flemmer also requested CR 11 sanctions and attorney fees.

In Stagman's answer, she asserted a counterclaim against Fahim for CR 11 sanctions. Stagman alleged that contrary to Fahim's representation in the Complaint to Quiet Title, Fahim contacted her in 1998 about the liens and she received calls from an escrow agent asking about the liens in 1999.

In Perry Hiscock's answer, it asserted a cross claim against Flemmer and a counterclaim against Fahim. The cross claim against Flemmer was for foreclosure of the Deed of Trust and judgment on the promissory note for the outstanding principal interest, costs, and attorney fees. Perry Hiscock also asserted a counterclaim against Fahim for CR 11 sanctions. Like Stagman, Perry Hiscock alleged that contrary to Fahim's representations, Fahim's attorney contacted the law firm about the liens in 1998 and the firm received calls from an

escrow agent requesting information about the liens in 1999. Fahim filed an answer to Flemmer's counterclaim and the CR 11 counterclaims asserted by Stagman and Perry Hiscock against him.

On October 5, 2004, Peery Hiscock and Stagman (collectively "the law firms") filed a joint motion for summary judgment. The law firms argued that Fahim's complaint should be dismissed because Fahim failed to allege a duty in support of his tort claims and failed to establish a prima facie case for the other claims. In addition, the law firms argued that because the liens survived the transfer of Flemmer's interest in the house to Fahim, Fahim was not entitled to quiet title.[3] The law firms requested CR 11 sanctions against Fahim because his claims were not supported in fact or law and his assertion that he did not know about the law firms' liens until 2003 was a materially false statement.

Flemmer also filed a motion for partial summary judgment. Flemmer argued that Fahim's tort claims were barred by the three-year statute of limitations and the other claims should be dismissed on the grounds of waiver and laches. Flemmer asked the court to impose CR 11 sanctions against Fahim and award her attorney fees.

By October 2003, Fahim had retained an attorney to represent him. His attorney immediately contacted the law firms to explain that Fahim's primary goal in the litigation was to remove the liens on the house and asserted the statute of

[3] The law firms also asserted that Fahim's case should be dismissed because Fahim failed to designate the case assignment area and file in the proper venue. However, neither law firm raised the issue of venue in its answer, nor was there a dispute that King County was the proper venue.

limitations barred foreclosure of the Deeds of Trust.

On October 22, the law firms filed a "Supplemental Authority in Support of the Joint Motion for Summary Judgment of Dismissal and Affirmative Relief." In the Supplemental Authority, the law firms argued that all Fahim's claims were barred by the statute of limitations.

On October 25, Fahim filed a "Response to Motions for Summary Judgment and Countermotion for Partial Summary Judgment." In his response, Fahim conceded that the tort claims asserted against Flemmer were barred by the three-year statute of limitations and should be dismissed. Fahim conceded that his tort claims against the law firms should be dismissed and clarified that the only claim he was pursuing was his quiet title action. Fahim admitted that he actually learned of the law firms' liens in 1998, or possibly late 1997, but claimed the error was an innocent mistake which was "understandable" given the complex and extensive history of the case. Fahim argued foreclosure by the law firms on the Deeds of Trust was barred by the six-year statute of limitations. Fahim asked the court to deny the summary judgment motions to dismiss the Complaint to Quiet Title and grant his countermotion to quiet title to the house. Fahim also asked the court to deny the requests to impose CR 11 sanctions.

After filing his response, Fahim stipulated to dismiss his claims against Flemmer. Based on the stipulation, the court entered an order dismissing the claims against Flemmer with prejudice and awarded Flemmer statutory attorney fees. The court also imposed CR 11 sanctions in an amount to be determined

later.

On November 1, 2004, the law firms filed a joint rebuttal to Fahim's response and cross motion. The law firms argued Fahim's cross motion was untimely under CR 56(c). The law firms also argued the court should strike Fahim's response to summary judgment on procedural grounds. The law firms also urged the court to not consider Fahim's arguments concerning the statute of limitations because Fahim did not plead the statute of limitations as an affirmative defense in answer to their counterclaims. Substantively, the law firms claimed foreclosure of the Deeds of Trust was not barred by the six-year statute of limitations because both Flemmer and Fahim acknowledged Flemmer's debt to the law firms. The law firms asserted that Flemmer acknowledged the debts by listing them in the 1997 bankruptcy petition and in her answer to Fahim's Complaint to Quiet Title. The law firms argued Fahim acknowledged the debts in 1998 by contacting the law firms to ask about the amount of the liens.

The court granted the law firms' motion for summary judgment, dismissed Fahim's Complaint to Quiet Title and ordered foreclosure. The court also granted the law firms' request to impose CR 11 sanctions.

In Fahim's motion for reconsideration, he argued that Flemmer was the only person with authority to acknowledge her debt to the law firms and extend the statute of limitations. Fahim also argued that Flemmer did not acknowledge her debt to the law firms in the Chapter 7 bankruptcy or in her answer to the Complaint to Quiet Title. The court denied Fahim's motion for reconsideration.

On January 7, 2005, the court entered an "Order of Dismissal with Prejudice and Affirmative Relief," dismissing Fahim's Complaint to Quiet Title with prejudice and awarding the law firms attorney fees and costs. The court ordered foreclosure of the Deeds of Trust and ordered the property to be sold with the proceeds applied to pay the principal, attorney fees, costs, and interest under the promissory notes. The court also imposed CR 11 sanctions against Fahim and his attorney for $10,000 to each law firm. On January 28, the court awarded Flemmer statutory attorney fees of $200 and CR 11 sanctions of $13,900.[4]

Fahim appeals the trial court's decision to grant summary judgment in favor of the law firms and foreclose on the Deeds of Trust. Fahim also appeals the denial of his motion for reconsideration and imposition of CR 11 sanctions.

ANALYSIS

Statute of Limitations

Fahim contends that because the statute of limitations bars foreclosure by the law firms of the Deeds of Trust securing Flemmer's debt to the law firms, the trial court erred in granting summary judgment and dismissing his Complaint to Quiet Title.

When reviewing an order of summary judgment, this court engages in the same inquiry as the trial court. Wilson v. Steinbach, 98 Wn.2d 434, 437, 656

[4] On April 1, 2005, the court also signed final orders including a judgment granting sanctions of $10,000 to Peery Hiscock, an order granting $10,000 in sanctions to Stagman, another judgment for $13,022 in favor of Stagman and an order for foreclosure, and a judgment for $50,812 in favor of Peery Hiscock and order granting foreclosure.

P.2d 1030 (1982). The court should grant summary judgment only if the pleadings, affidavits, depositions, and admissions demonstrate the absence of any genuine issues of material fact and the moving party is entitled to judgment as a matter of law. CR 56(c). We consider all facts submitted and all reasonable inferences from them in the light most favorable to the nonmoving party. Wilson, 98 Wn.2d at 437. We will affirm the grant of summary judgment only if, from all the evidence, it is clear that reasonable persons could reach but one conclusion. Citizens for Responsible Wildlife Mgmt. v. State, 149 Wn.2d at 630-31, 71 P.3d 644 (2003).

On appeal, the law firms do not respond to Fahim's contention that foreclosure of the Deeds of Trust was barred by the statute of limitations. Instead, the law firms argue that because Fahim did not assert the statute of limitations as an affirmative defense in answer to the law firms' CR 11 counterclaims and because his "response and countermotion" for summary judgment was untimely, Fahim's statute of limitations argument was not considered by the trial court, and cannot be considered on appeal.

The law firms are correct that Fahim's cross motion for summary judgment was untimely.[5] But even though the cross motion was untimely, unless Fahim waived the statute of limitations defense by not asserting it in answer to the law firms' counterclaims his response to the law firms' summary motion was timely and properly considered.[6]

[5] Under CR 56(c), a motion for summary judgment must be filed at least 28 days before the hearing. The case schedule deadline for hearing dispositive motions case schedule was November 8.

CR 8(c) requires parties to "set forth affirmatively . . . any other matter constituting an avoidance or affirmative defense." Peery Hiscock filed a cross claim against Flemmer for judgment on the promissory note and foreclosure of the Deeds of Trust.[7] Perry Hiscock asserted a counterclaim against Fahim for CR 11 sanctions. Stagman also filed a counterclaim against Fahim for CR 11 sanctions. Although CR 8(c) requires affirmative defenses to be set forth in an answer, the only counterclaims asserted against Fahim by the law firms were for CR 11 sanctions. Fahim had no obligation to assert the statute of limitations in answer to the law firms' CR 11 counterclaims. Fahim did not waive his argument that the six-year statute of limitations bars foreclosure of the Deeds of Trust securing Flemmer's promissory notes to the law firms.[8]

In addition, as reflected in the written findings, the trial court expressly considered whether foreclosure was barred by the statute of limitations and whether Flemmer and Fahim acknowledged the debts and extended the statute of limitations.

> (12) Any applicable statute of limitations in the case at bar, would apply to the underlying debt obligation/contract to the Defendant

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[6] Under CR 56(c) responses must be filed no later than 11 days before the summary judgment hearing.

[7] According to the record, Stagman did not assert a claim under the promissory note. It does not appear that she subsequently amended her answer.

[8] It appears the law firms were well aware of Fahim's position that foreclosure was barred by the statute of limitations. As a preface to his claims for accounting and indemnification in the Complaint to Quiet Title, Fahim states, "[i]n the event the liens of [the law firms] are not removed by the court, either due to the provisions of the statute of limitation or due to defects in the deeds of trust…" Shortly after he was retained in October 2003, Fahim's lawyer also contacted the law firms, offering to dismiss if the law firms removed the liens. "It appears to me that the law firms cannot pursue collection of their attorney fee contracts with Ms. Flemmer, and thus cannot foreclose the deeds of trust securing her performance, because of the applicable statute of limitations."

> Law Firms; that
>
> (13) When Plaintiff received a Quit Claim Deed from Defendant Flemmer, dated October 22, 1997, he received by legal transfer, any and all remaining interest Defendant Flemmer had in the subject Property and subject to any and all the remaining interest Defendant Flemmer had in the subject property and subject to any and all then existing encumbrances; that
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> (14) Any applicable statutes of limitations on the underlying debts of recorded/perfected liens on the subject Property ran anew; that
>
> (15) Defendant Flemmer re-acknowledged and reaffirmed the underlying debt owed to the Defendant Law Firms in her 1997 Bankruptcy Petition and again in her Answer (2003) and Amended Answer (2004) to Plaintiff's Complaint filed herein. Each reaffirmation was done within any related six-year statue of limitations; that
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> . . .
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> (18) Plaintiff re-acknowledged the underlying debt owed to the Defendant Law Firms in his 1998 correspondence with Defendant Law Firms and again in the filing and unreasonable perpetuation (2003, 2004) of his Complaint in the current action against the Defendant Law Firms; that . . .

Flemmer executed the promissory notes to the law firms secured by Deeds of Trust in May 1994 on her interest in property. The statute of limitations on a promissory note and a deed of trust is governed by RCW 4.16.040. RCW 4.16.040 imposes a six-year limitation for "[a]n action upon a contract in writing, or liability express or implied arising out of a written agreement." RCW 7.28.300 authorizes an action to quiet title where an action for foreclosure of the deeds of trust is barred by the statute of limitations.[9] See Walcker v. Benson, 79 Wn. App. 739, 742-46, 904 P.2d 1176 (1995); Jordan v. Bergsma, 63 Wn. App. 825,

[9] RCW 7.28.300 states:

> The record owner of real estate may maintain an action to quiet title against the lien of a mortgage or deed of trust on the real estate where an action to foreclose such mortgage or deed of trust would be barred by the statute of limitations, and, upon proof sufficient to satisfy the court, may have judgment quieting title against such a lien.

828-31, 822 P.2d 319 (1992).

It is undisputed that the law firms filed the Deeds of Trust in May 1994. It is also undisputed that Flemmer was in default by the end of 1994 and the law firms did not take action to collect on the promissory notes or foreclose on the Deeds of Trust during the six-year statute of limitations. The first time the law firms sought to foreclose on the Deeds of Trust was when Perry Hiscock asserted a cross claim against Flemmer after Fahim filed his lawsuit to quiet title in 2003. Although the law firms do not respond to Fahim's statute of limitations argument on appeal, they argued below that foreclosure of the Deeds of Trust was not barred by the statute of limitations because Flemmer and Fahim extended the statute of limitations by acknowledging the debts.

A written and signed acknowledgment of a debt or promise to pay by the debtor extends the statute of limitations. See RCW 4.16.280;[10] Jewell v. Long, 74 Wn. App. 854, 856, 876 P.2d 473 (1994) (new deed of trust restarted statute of limitations on mortgage obligation); Lombardo v. Mottola, 18 Wn. App. 227, 566 P.2d 1273 (1977) (subsequent note stating amount and with signatures acknowledged debt under promissory note).

When a writing is made before the statute of limitations period has expired, any acknowledgment of the obligation necessarily implies an agreement

[10] RCW 4.16.280 provides:
No acknowledgment or promise shall be sufficient evidence of a new or continuing contract whereby to take the case out of the operation of this chapter, unless it is contained in some writing signed by the party to be charged thereby; but this section shall not alter the effect of any payment of principal or interest.

to pay, unless the written acknowledgment indicates a contrary conclusion. Cannavina v. Poston, 13 Wn.2d 182, 195, 124 P.2d 787 (1942) (citing Griffin v. Lear, 123 Wn. 191, 200, 212 P. 271 (1923)). An effective acknowledgement must either expressly promise to pay the debt or express a clear admission of the debt. The acknowledgement must also be communicated to the creditor and not indicate an intention not to pay the debt. Burnham v. Burnham, 18 Wn. App. 1, 3, 567 P.2d 242 (1977); Jewell, 74 Wn. App. at 857; Griffin, 123 Wash. at 199 (citing 1 H.G. Wood, Limitations of Actions at Law and in Equity 436 (4th ed. 1916)).

When a writing is made after the statute of limitations period, a higher standard applies because the debtor's acknowledgement can create a new obligation. Griffin, 123 Wash. at 198-99. An acknowledgement made after the running of the statute of limitations must be strictly construed. Id. at 200. The acknowledgment "'must be clear and unequivocal and made with reference to a particular debt . . . [and] must be so clear that a promise to pay must necessarily be implied.'" Thisler v. Stephenson, 54 Wash. 605, 607, 103 P. 987 (1909).

Flemmer's 1996 quit claim deed to Fahim relinquishing her interest in the house did not affect the Deeds of Trust to the law firms that she executed in 1994 as security for the promissory note. As a matter of law, a quit claim deed conveys "all the then existing legal and equitable rights of the grantor in the premises therein described. . . ." See RCW 64.04.050. Roeder Co. v. KTE Moving & Storage Co., 102 Wn. App. 49, 56-57, 4 P.3d 839 (2000). But the six-

year statute of limitations bars foreclosure of the Deeds of Trust, unless the statute of limitations was extended either by an express promise by Flemmer to pay the May 1994 debt to the law firms or by a clear admission of the debt to the law firms.

The law firms asserted below that Flemmer acknowledged the law firm debts in 1997 when she listed them in the Chapter 7 petition for bankruptcy. But Flemmer's listing the law firm debts in the Chapter 7 bankruptcy is not necessarily an express promise to pay those obligations, nor a clear communication to the creditor of an intent to pay the debts. To the contrary, seeking to discharge the law firm debts in bankruptcy suggests an intent not to pay those obligations. There are material issues of fact about whether listing the law firm debt amounts in a Chapter 7 bankruptcy petition is sufficient to extend the statute of limitations.

The law firms also claimed below that Flemmer acknowledged the debt in answer to Fahim's Complain to Quiet Title. In her answer, Flemmer admitted that "in 1994 she executed documents encumbering an interest in real property that she owned on behalf of defendant [Peery Hiscock]." Flemmer also admitted that "in 1994 she executed documents encumbering an interest in real property that she owned on behalf of defendant Stagman." Because Flemmer's answer to Fahim's complaint occurred after the expiration of the statute of limitations, it is subject to a higher standard of proof. An acknowledgment after the expiration of the statute of limitations must be "clear and unequivocal" because it can create a

new agreement. Construing the evidence in the light most favorable to the nonmoving party, Flemmer's statements in the answer neither acknowledge a current and outstanding obligation nor renew a promise to pay the debt.

The law firms also argued below that Fahim acknowledged the debts when he made inquires about the liens in 1998 and in 2003. While the authority to extend the statute of limitations for a debt has been inferred from a marital relationship or established based on an express authorization, such as a power of attorney, caselaw suggests that in the absence of express authority, a person cannot acknowledge and reaffirm the debt of another. See Milroy v. Movic, 189 Wash. 17, 21, 63 P.2d 496; Pederson v. Jordan, 177 Wash. 379, 383, 32 P.2d 114 (1934). And, even in cases where a spouse is a co-debtor, we have concluded that reaffirmation of one spouse without express authority to do so is insufficient to extend the statute of limitations period as to the other spouse. Matson v. Weidenkopf, 101 Wn. App. 472, 478-79, 3 P.3d 805 (2000).

Here, there is no evidence in the record showing Fahim was authorized to acknowledge Flemmer's debts to the law firms or extend the statute of limitations. In addition, even if Fahim had the authority to affirm Flemmer's debt, there are material issues of fact as to whether he effectively did so.

In the record, one letter from Fahim's lawyer to Stagman in 1998 asks for all "documents that you claim create an interest in Mr. Fahim's property" and states the lawyer was "in the process of making a recommendation to Mr. Fahim." In the 2003 correspondence between Fahim and the law firms, Fahim's

statements are also equivocal. For instance, Fahim wrote to Peery Hiscock: "I do not wish to get stuck paying Ms. Flemmer's fees without any recourse to recover said fees. On the other hand, you provided a service for Ms. Flemmer and you are entitled to compensation from her."[11] While Fahim acknowledges Flemmer's obligation, he clearly states he won't pay the debts absent indemnification.

We conclude there are material issues of fact as to whether Flemmer acknowledged her debt to the law firms so as to extend the six-year statute of limitations. And there does not appear to be any evidence that Fahim was authorized to act on Flemmer's behalf to reaffirm Flemmer's debt to the law firms under the promissory notes and toll the statute of limitations.

CR 11 Sanctions

Fahim also challenges the trial court's decision to impose CR 11 sanctions against him and his lawyer for $10,000 to each law firm. In its order on summary judgment, the court concluded CR 11 sanctions were appropriate because Fahim's tort claims were not supported in fact or warranted by law and he falsely claimed that he first learned of the liens in 2003.

Under CR 11, a signature certifies that:

> to the best of the attorney's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances it [the pleading, motion or memoranda] is well grounded in fact, (2) it is

[11] While Fahim's other statements acknowledge the liens, they do not indicate a promise to pay. For example, Fahim wrote to Stagman: "I appreciate your offer to settle out-of-court and I will give it a serious consideration," but then states the reasons that the liens are not valid and enforceable. In addition, in so far as the correspondence from Fahim may be characterized as offers to compromise, "offers to compromise a claim on a debt rebut the presumption of an implied promise to pay because they necessarily indicate an intent not to pay the full sum owed." Fetty v. Wenger, 110 Wn. App. 598, 603, 36 P.3d 1123 (2001).

> warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, (3) it is not interposed for any improper purpose, such as to harass, or to cause unnecessary delay or needless increase in the cost of litigation, . . .[12]

In order to award sanctions under CR 11, the trial court must find the claim is not well-grounded in fact or warranted by law and the attorney or party failed to make reasonable inquiry into the facts or law, or that the pleading was filed for an improper purpose. Biggs v. Vail, 124 Wn.2d 193, 200-01, 876 P.2d 448 (1994) (Biggs II).[13] "In deciding whether the trial court abused its discretion, we must keep in mind that '[t]he purpose behind CR 11 is to deter baseless filings and to curb abuses of the judicial system.'"[14] Biggs II, 124 Wn.2d at 197 (quoting Bryant v. Joseph Tree, Inc., 119 Wn.2d 210, 219, 829 P.2d 1099 (1992)). Thus, the court should inquire whether a "reasonable attorney in like circumstances" could believe his or her statements were factually and legally justified. Bryant, 119 Wn.2d at 220.

The standard under CR 11 for attorneys and pro se litigants is the same. Harrington v. Pailthorp, 67 Wn. App. 901, 910, 841 P.2d 1258 (1992). This court reviews an award of CR 11 sanctions for abuse of discretion. State ex rel. Quick-Ruben v. Verharen, 136 Wn.2d 888, 903, 969 P.2d 64 (1998). A trial court may award attorney fees as a CR 11 sanction, but it must limit those fees

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[12] CR 11(b).

[13] Contrary to Fahim's argument otherwise, CR 11 does not require the entire complaint to be without basis in fact or law.

[14] (Emphasis in original.)

to the amount reasonably expended in responding to the sanctionable claims. Biggs II, 124 Wn.2d at 201 (citing Scott Fetzer Co. v. Weeks, 122 Wn.2d 141, 148-53, 859 P.2d 1210 (1993)).

Because Fahim's quiet title action was well-grounded in fact and law, we reverse the orders awarding CR 11 sanctions to the law firms and remand. While the trial court may still conclude CR 11 sanctions are appropriate, not all of the law firms' expenditures were incurred in response to meritless claims.[15]

Fahim also challenges the trial court's decision to award attorney fees to Flemmer as CR 11 sanctions. Although Fahim asserts that his claims against Flemmer were well-grounded in law and fact, he conceded the claims against Flemmer were barred by the statute of limitations and should be dismissed. As to the amount of attorney fees, Fahim contends that the documentation submitted by Flemmer's attorney does not detail the time expended on particular tasks and the fees charged by an attorney who filed a declaration on Flemmer's behalf were unreasonably high.[16] Because all of the attorney fees were related to responding to Fahim's Complaint to Quiet Title and obtaining dismissal, the record supports the trial court's decision to award Flemmer all her attorney fees as a CR 11 sanction.

CONCLUSION

[15] Fahim concedes the tort claims were barred by the statute of limitations and he knew about the liens earlier than he stated in his complaint. The trial court was entitled to conclude CR 11 sanctions were appropriate for filing the tort claims and to reject Fahim's explanation about misstating when he knew about the liens.

[16] And as Flemmer points out, the attorney who filed the declaration also worked on the summary judgment briefs.

We affirm the order dismissing Fahim's claims against Flemmer and the judgment awarding sanctions to Flemmer. Because there are material issues of fact as to whether the law firms' claims for judgment based on the promissory notes and foreclosure of the Deeds of Trust are barred by the statute of limitations, we reverse the court's dismissal of Fahim's quiet title action and vacate the judgments ordering foreclosure. We also reverse the trial court's

orders awarding CR 11 sanctions to the law firms and remand.[17]

WE CONCUR:

Schindler, ACJ

Dwyer, J.

[17] We deny the request by each party for attorney fees on appeal. Fahim requests attorney fees on appeal but does not devote a section of his brief to the issue and it is not clear that he is specifically requesting fees incurred on appeal. The law firms request fees on appeal but do not state a basis and do not offer any argument. We deny both requests. RAP 18.1(a) and (b). Flemmer also requests attorney fees on appeal, arguing that Fahim's appeal is frivolous. But because we conclude that Fahim's appeal is not frivolous, we also deny Flemmer's request.